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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/785,842	02/16/2001	Calvin Joseph Stowe II	154-23110-US	3585

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EXAMINER

TUCKER, PHILIP C

ART UNIT	PAPER NUMBER
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1712

DATE MAILED: 01/31/2003

9

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

785842

Applicant(s)

STOWE

Examiner

P. TUCKER

Group Art Unit

1712

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

### Status

- ☒ Responsive to communication(s) filed on 11/19/02
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

### Disposition of Claims

- ☒ Claim(s) 1 - 12, 14 - 31, 32 - 40 is/are pending in the application.
- Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- ☒ Claim(s) 19 - 31, 32 - 40 is/are allowed.
- ☒ Claim(s) 1 - 5, 7 - 9, 11, 12, 16, 18 is/are rejected.
- ☒ Claim(s) 6, 10, 14, 15, 17 is/are objected to.
- ☐ Claim(s) \_\_\_\_\_ are subject to restriction or election requirement.

### Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- ☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been received.
- ☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_
- ☐ received in this national stage application from the International Bureau (PCT Rule 1.7.2(a)).

\*Certified copies not received: \_\_\_\_\_

### Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s) \_\_\_\_\_ Interview Summary, PTO-413
- ☒ Notice of Reference(s) Cited, PTO-892 Notice of Informal Patent Application, PTO-152
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948 Other \_\_\_\_\_

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## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-5, 7-9, 11, 12, 16 and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Ricci et al. (5164433).

Ricci teaches a thickener composition which may be used in drilling fluids, which comprises a latex, a surfactant, aluminum silicate and salts, such as calcium carbonate (see Table 1 and column 5, lines 56-59).

3. Claims 1-5, 7-9, 11, 12, 16 and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Onan et al. (5346011).

Onan teaches a wellbore fluid which comprises a latex, aluminum silicate, a sodium alkyl sulfate surfactant, and a salt such as zinc oxide (see for example column 8, lines 37-61).

Applicants intended use as a drilling fluid does not distinguish (In re Pearson 181 USPQ 641).

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4. Claims 1-3 and 5 are rejected under 35 U.S.C. 102(b) as being anticipated by Endres (2809179).

Endres teaches a composition which comprises latex, barium sulphate and a precipitating agent, such as aluminum sulfate (see examples). The barium sulfate contains silicate therein (column 5, lines 11-15). Applicants intended use as a drilling fluid does not distinguish (In re Pearson 181 USPQ 641).

5. Claims 6, 10, 14, 15 and 17 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

6. Claims 19-31 and 32-40 are allowable over the art of record.

7. Applicants arguments have been considered and are deemed persuasive, in that although the clays are alumino-silicate complexes, there is no indication that such would act as a precipitating agent. New rejection are presented in which specific precipitating agents such as aluminum sulfate or aluminum silicate are disclosed in the references.

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8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Philip Tucker whose telephone number is (703) 308-0529. The examiner's normal working hours are 7:30am-4:00pm, Monday-Friday. If necessary SPE Robert Dawson may be contacted at 703-308-2340. For inquiries of a general nature call the receptionist at 703-308-0651. The group FAX no. is 703-872-9310. The **after final** fax no. Is 703-872-9311.

PCT-2723  
January 27, 2003

*Philip C. Tucker*  
**PHILIP C. TUCKER**  
**ART UNIT 1712**